LANDOWNER'S PROPERTY IN SUBTERRANEAN OILS AND GAS—OHIO OIL CO. v. STATE OF INDIANA, 20 Sup. Ct. Rep. 576.—A statute was passed by the Legislature of Indiana restricting the waste of oil and gas by the owner of the soil. *Held*, constitutional and not an interference with the rights of private property.

In the present case subterranean streams are held to be of the nature of things ferae naturae, and that property therein is not obtained until a reduction to possession takes place by a confining in vaults, vats or other appropriate receptacle. See Comment.

LANDLORD AND TENANT—ABANDONMENT OF PREMISES—RELETTING—GRAY v. KAUFMAN DAIRY AND ICE CREAM CO., 56 N. E. 903 (N. Y.).—Action to recover two months' rent of plaintiff's premises. Defendant abandoned leased premises of plaintiff, who then wrote to the defendant, refusing to accept his offer to surrender, stating that he would relet premises on his account and hold him responsible for any loss. Defendant did not reply, and an interview was held, and an offer of compromise was made. Said plaintiff wrote defendant that he had an offer for premises at a lower rental, and asked him if he would make good the difference. Not receiving a reply he relet, in his own name, to new tenant. *Held*, that the acts of the plaintiff operated as an acceptance of defendant's offer to surrender, as defendant's failure to reply did not create a presumption that he had agreed to the releting. Landon, J., dissenting.

Where a tenant abandons premises during his term, without fault on the part of the landlord, the tenant is liable for the rent, but the landlord must relet the premises if possible (12 *Am. & Eng. Enc.* 751). It is hard to see, therefore, why the landlord's releting of the premises in his own name discharged the defendant (*Locknow* v. *Hargan*, 58 N. Y. 635).

LIBEL AND SLANDER—SUBSEQUENT CONDUCT—ADMISSION OF EVIDENCE—MATHEWS v. DETROIT JOURNAL CO., 82 N. W. 243 (Mich.).—In an action, in charging that plaintiff and another were found together in a compromising position, where the evidence showed this, and earlier acts of intimacy. *Held*, that evidence of subsequent improper actions of the two together was admissible.

The general rule against the admission of proof of subsequent similar acts to prove commission of an act by defendant in criminal cases, is, it is said, somewhat relaxed where the offense consists of illicit intercourse between the sexes. *Am. & Eng. Ency. of Law* (2d ed.) 1–753 and 4. Evidence of subsequent improper familiarity is held admissible. *Thayer* v. *Thayer*, 101 Mass. 111; *Crane* v. *People*, 48 N. E. 54, 169, Ill. 395; *State* v. *Bridgeman*, 49 Vt. 202, 24 Am. Rep. 124; Contra, *State* v. *Donovan*, 61 Iowa 278; *People* v. *Fowler*, 62 N. W. 572, 104 Mich. 449; *Com.* v. *Pierce*, 11 Grey. 447.

LIFE INSURANCE—APPLICATION—FALSE STATEMENTS—POLICY—VALIDITY—STERNAMAN v. METROPOLITAN LIEE INS. CO., 63 N. Y. Supp. 674.—This was an action to recover the amount due on a policy issued in reliance on a statement contained in the application, and warranted true, which was in fact false, and which was written therein, by the medical examiner of the company, who knew of its falsity and who by the terms of the application was made the agent of the insured party. *Held*, the policy was void. Spring, J., dissenting.

That knowledge by the insured that his statements were false renders the policy void, is undisputed. *Clements* v. *Indemnity Co.*, 51 N. Y. Supp. 442; also, that an insurance company may require that the person conducting the examination be considered as the agent of the insured and not of the insurer, is well sustained by authority. *Bernard* v. *Association*, 43 N. Y. Supp. 527. But it has also been held that such stipulations cannot change the facts, and

that where a duly appointed agent of the company acts in its behalf, within the scope of his authority, as otherwise determined, his acts shall be binding on the company. *Whited* v. *Germania, etc., Ins. Co.*, 76 N. Y. 415. This latter rule seems much more equitable.

MASTER AND SERVANT—FELLOW SERVANT'S NEGLIGENCE—GENERAL REPUTATION—KNOWLEDGE OF MASTER—LAMBRECHT v. PFIZER, 63 N. Y. Supp. 591.—A fellow-servant, with a general reputation for incompetency, negligently pushed a truck into a shaft and thereby caused injury to the plaintiff, who was on a platform elevator below. *Held*, master not liable.

The court held that the general reputation for incompetency of a servant among his fellow servants was not sufficient to charge the employer with knowledge of the same without proof of specific cases of negligence, in which respect the plaintiff failed to establish his case. *Park* v. *Railroad Co.*, 155 N. Y. 215. It has been held, however, that ignorance of incompetency tends to show negligence on the part of the master and he is liable accordingly. 12 *Am. & Eng Ency.* 912. Cooley, J., seems to favor this idea in *Davis* v. *Detroit R. R. Co.*, 20 Mich. 124.

MASTER AND SERVANT—INJURIES TO SERVANT—INSTRUCTIONS—RIBICH v. LAKE SUPERIOR SMELTING CO., 82 N. W. 279 (Mich.).—An employee was injured by the explosion of a pot of molten copper which he dumped at a place where there was water. *Held*, that an instruction that it was the duty of the master to warn plaintiff that an explosion might result from contact with water, and of the "nature, force, and probable effect" of such explosion, was not erroneous as imposing upon the master the duty of foretelling the precise result of any possible explosion. The master is not discharged by informing servant generally that the service is dangerous. *Am. & Eng. Ency. of Law* (*1st ed.*) 14-897. The master should inform servant of dangers likely to result from explosion from contact of hot metal with water. *McGowan* v. *La Plata Mining and Smelting Co.*, 3 McCrary's Rep. (393). See note to *Farmer* v. *Ant. Iowa R. R. Co.*, 24 N. W. 895.

MARITIME TORTS—DEATH FROM NEGLIGENCE—LAW APPLICABLE—RUNDELL v. LA CAMPAGNIE, 100 Fed. 655.—Plaintiff's intestate met his death at sea in the collision of the La Bourgogne. Negligence was alleged and damages asked for. *Held*, in absence of allegation that death occurred on the ship flying the French flag, the tort must be held to have been committed on the high seas, to which the local French law is unapplicable and the general maritime law, which gives no action for death by negligence, applies.

This we deem to be a good interpretation of a bad law. Congress should fill the gap in the maritime law that Lord Campell's Act did for the common law.

MARRIAGE SETTLEMENTS—SEPARATION—VALIDITY—KING v. MOLLOHAN ET AL., 60 Pac. Rep. 731 (Kan.).—Where husband and wife by mutual agreement separated and made mutual conveyances in consideration thereof. *Held*, such conveyances valid in law.

The disposition of courts to regard the intention of contracting parties and their reluctancy to permit the marriage status to be disturbed by agreement of the parties have led to fine distinctions among the authorities, Sir William Scott in *Mortimer* v *Mortimer*, 2 Hagg. Cous. 318, holding no agreement binding between married persons in consideration of separation; also *Parsou's Coutr.*, p 358, but an agreement to make a settlement for support during such separation is upheld. *Wilson* v. *Wilson*, 3 B. & Ad. 743; *Dutton* v. *Dutton*, 30 Ind. 452. But an executory agreement to this effect before separation has taken place will not be enforced. *Walker* v. *Walker*, 9 Wall 743.